

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
October 7, 2003**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Bigelow, Forman and Kenny

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti read the following agenda item:

Mandatory Referral, Amendment of Coastal Site Plan Review #167 and Flood Damage Prevention Application #176, Darien Sewer Commission/DPW, Long Neck Point Road, Pear Tree Point Road, Crane Road sewer extension project.

Proposal to construct a sanitary sewer line within the bridge deck of the Ring's End Road bridge, to connect the proposed (and previously approved) sanitary sewer line on Long Neck Point Road to the existing sewer on Ring's End Road.

The Commission members reviewed the letter requesting an amendment to the previously approved plans. The project involves installing sewers in Ring's End Road and Harbor Road, and then extending the sanitary sewer line under the Goodwives River/Darien Harbor/Gorham's Pond so that the Long Neck Point Road, Pear Tree Point Road and Crane Road area can be served by a sanitary sewer system. The method of installing the sewer line under the northern end of the Darien Harbor was to be a directional boring system that would cause very little disturbance of the area. It now seems that the contractor and Sewer Commission want to amend the plans to eliminate the directional boring under the river and instead use a pipe that would be placed within the paving of the Ring's End Road Bridge. Commission members noted that the Environmental Protection Commission will hold a Public Hearing on this matter on November 5, 2003. Chairman Damanti said that the Planning and Zoning Commission had received very specific plans on how the water crossing would be accomplished, and that seemed to be a major component of the whole project. He said that the Planning and Zoning Commission should conduct a Public Hearing so that people would have an opportunity to comment on the revised construction details.

After further discussion, the following motion was made:

That the Commission determines that a Public Hearing will be necessary before the requested amendment can be acted upon, and that the Public Hearing notification will be published in the newspaper, but that the applicant needs to send notices to the property owners in the immediate vicinity of where the pipe installation would take place in the Ring's End Road Bridge in lieu of the directional boring technique.

The motion was made by Mr. Kenny, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

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Business Site Plan #184-B/Special Permit, Rory's Restaurant, 416 Boston Post Road. Proposing to modify the existing restaurant by adding onto the existing kitchen, modifying the access drive and parking, and perform related site development activities.

The following motion was made: That the Commission waive the process of reading the entire draft resolution aloud because each member had received and reviewed the draft in preparation for the meeting.

The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

In the discussion that followed, Commission members noted that the Health Department would probably require the installation of a grease trap. They also noted that the present Health Code violations need to be corrected as soon as possible, and therefore it is important that this project be undertaken with all deliberate speed.

The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations contained within the resolution:

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ADOPTED RESOLUTION
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Application Number: Business Site Plan #184-B/Special Permit
Rory's Restaurant

Street Address: 416 Boston Post Road

Tax Assessor's Map #32 Lot #22

Name and Address of Applicant: Tom Geary
28 Blue Mountain Road
Norwalk, CT 06851

Name and Address of Property Owner: Tim Donahue
124 Old King's Highway North
Darien, CT 06820

Name and Address of
Applicant's Representative: Robert Young
PO Box 1721
Darien, CT 06820

Activity Being Applied For: Proposing to modify the existing restaurant by adding onto the existing kitchen, modifying the access drive and parking, and perform related site development activities.

Property Location: The subject property is on the south side of the Boston Post Road at the northeast corner formed by the intersection of Boston Post Road and Old King's Highway North.

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Zone: DB-2

Date of Public Hearing: September 16, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 4 & 11, 2003

Newspaper: Darien News-Review

Date of Action: October 7, 2003

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

October 16, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 620, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use is described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following review of the submitted application materials and related analyses, the Commission finds

1. The applicant proposes to modify the existing restaurant by adding onto the existing kitchen, modifying the access drive and parking, and perform related site development activities. These changes are necessary to eliminate current violations of the Health Code requirements. As part of this proposal, a portion of the existing residence on the property (the garage and breezeway) will be removed. This is necessary to comply with the maximum developed site area of 70%. All walk-out refrigeration units and outdoor storage sheds are to be removed as part of this proposal. The total size of the restaurant building after the proposed addition is 1,462 gross square feet, with no increase in the area of the restaurant used for patron bar or seating. The existing restaurant/bar/bathroom area is now 711 square feet, and is proposed to become 704 square feet.
2. The Zoning Board of Appeals (ZBA) granted a variance for this project in May 2003, as part of Calendar No. 44-2003. There were two conditions within that approval: 1) that 12 legal (properly designed) parking spaces must be shown on a revised plan; and 2) no additional patron seating be created as part of this project. That approval is hereby incorporated by reference.

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3. Although there is limited parking on-site, the applicant noted at the public hearing that patrons often park at nearby properties. It was noted by the applicant that valet parking of vehicles sometimes occurs. It is again acknowledged that a parking variance has been granted by the ZBA. Two parking spaces have been set aside for the existing residence on the property per Section 904 of the Darien Zoning Regulations.
4. The Architectural Review Board, at its meeting of June 17, 2003 approved the exterior design of the application to construct a 780 +/- square foot addition to the existing restaurant.
5. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
6. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
7. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
8. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #184-B/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the additions and alterations to the existing building shall be in accordance with the plans entitled:
Site Plan, by Robert E. Young Associates Architects, scale 1"=10', dated August 13, 2003, Drawing Number: PZ-4.
Floor Plan, by Robert E. Young Associates Architects, scale 1/4"=1'0", dated April 4, 2003, Drawing Number: SC-1.
Exterior Elevations, by Robert E. Young Associates Architects, scale 1/4"=1'0" (or as noted), dated April 4, 2003, Drawing Number: SC-2.
- B. All mechanical equipment such as HVAC are to be placed on the roof of the building and are to be screened from view by the design of the roof. No ground mounted mechanical equipment is proposed and none is approved.

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- C. No expansion of customer space and no increase in occupancy or seating is permitted. No exterior seating is permitted.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Fire Marshal and Darien Health Department. This also includes any requirements that may be applicable to the current operation, before the addition is started.
- F. It is understood that the construction project will necessitate closing the restaurant for several months while the work is underway. Prior to re-opening, or operating the proposed restaurant, all of the proposed improvements shall be completed and written verification by the project architect shall be submitted to verify that all work has been completed in accordance with the approved plans.
- G. All external refrigeration units and/or storage sheds are to be removed as part of this project. No other structure(s), exterior activity or storage (other than the trash receptacles within the fence enclosure, the fuel tanks and grease vat all as shown on the site plan) are permitted. The gates to the trash enclosure must always be kept closed except when someone is actually in the process of loading or unloading the dumpster(s). To screen the view of the grease vat from the streets, it must be placed within the fence enclosure for the dumpster, or if it needs a separate space as shown on the site plan, then, an additional fence enclosure must be created around it and that enclosure must be properly maintained.
- H. The proposed site developed area is to be 70% of the lot area. This is the maximum permitted by the regulations. No further expansions of the buildings, parking area or other aspects of the development are permissible.
- I. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, **implementation of the approved plan and completion of the project within one (1) year of this action (by October 6, 2004).** This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Within 60 days of this action in order to finalize this approval a Special Permit form shall be filed in the Darien Land Records, or this approval shall become null and void.

The motion was made by Mrs. Forman, seconded by Mr. Kenny and unanimously approved.

Chairman Damanti read the following agenda item:

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Coastal Site Plan Review #187, Land Filling & Regrading Application #107, Richard & Robin Woods, 137 Five Mile River Road. Proposing to demolish existing residence and garage, and construct a new single-family residence and garage; construct a garage/workshop; install septic system galleries; repair an existing seawall, install walkway to dock, and perform related site development activities within a regulated area.

The following motion was made: That the Commission waive the process of reading the entire draft resolution aloud because each member had received the resolution and had an opportunity to review it in preparation for the meeting. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved. Some minor, technical modifications were discussed and agreed upon.

The following motion was made: That the Commission adopted the following revised resolution to approve the project subject to the conditions and stipulations in the resolution:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2003**

Application Number: Coastal Site Plan Review #187
Land Filling & Regrading Application #107

Street Address: 137 Five Mile River Road
Tax Assessor's Map #67 Lot #5

Name and Address of Property Owner: Richard & Robin Woods
And Applicant: 174 Mansfield Avenue
Darien, CT 06820

Name and Address of Applicant's Representatives: Jeff McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to demolish existing residence and garage, and construct a new single-family residence and garage; construct a garage/workshop; install septic system galleries; repair an existing seawall, install walkway to dock, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Five Mile River Road, approximately 1150 feet south of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: September 23, 2003

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Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 11 & 18, 2003

Newspaper: Darien News-Review

Date of Action: October 7, 2003

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 16, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The request is to demolish existing residence and garage, and construct a new single-family, four bedroom residence with attached 2 car garage; construct a detached garage/workshop; install septic system galleries; repair an existing seawall, install walkway to the existing dock, and perform related site development activities within a regulated area.
2. The Environmental Protection Commission approved this project on September 3, 2003 as part of EPC #87-2003. That approval is hereby incorporated by reference.
3. The State of Connecticut DEP Office of Long Island Sound Programs sent written comments regarding this application. Those comments noted the need to do the following:
 - A. submit a plan showing the location and spatial relationship of coastal resources on and adjacent to the site;
 - B. address how storm water would be managed;
 - C. resolve the issue regarding unauthorized float and two piles;
 - D. revise plans to reduce the amount of fill, thereby eliminating the need to raise the existing seawall by four feet.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #187 and Land Filling and Regrading Application #107 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The plans need to be revised to reflect that no cooking facilities are proposed or allowed in the detached garage/workshop and all of the issues noted by the Connecticut Department of Environmental Protection (DEP) in its fax received in the Planning and Zoning Department on September 18, 2003 and in its Coastal Site Plan Review Comments Checklist. Revised plans must be submitted by November 7, 2003. If the revisions to the plans are acceptable to the Director of Planning (acting on behalf of the Commission) and to John Gaucher (of the DEP), then the revised plans shall be signed by the Chairman as being the final approved plans. If the revised plans are not acceptable to either the Director of Planning or Mr. Gaucher, then the applicant may appear at the November 18, 2003 meeting of the Commission so that the Commission can decide if the revisions are acceptable. If the revisions are not acceptable, then the Commission may decide to extend the time to produce corrected/revised plans or may deem that the applicant has failed to comply with the condition/stipulation of this action and the Commission may find that this approval is null and void.
- B. Subject to the required revisions as noted above, construction and regrading shall be in accordance with the plans entitled:
- Zoning Location / Topographic Survey of #137 Five Mile River Road prepared for Richard Woods, by William W. Seymour & Associates, scale 1"=20', dated April 24, 2003 and last revised August 12, 2003.
 - LANDSCAPE PLAN: Landscape Plan Woods Residence prepared by Environmental Land Solutions, scale 1"=10', dated 8/5/03 and last revised 8-12-03, Drawing No. LP-1.
 - Woods Residence 137 Five Mile River Road Purpose: Repair and Construct Concrete Retaining Walls, dated August 11, 2003 (Rev 1 09-17-03) (*Revision #1 on September 17, 2003*), 8 Sheets total: Vicinity Map; Existing Site Plan; Existing Partial Site Plan; Proposed Partial Site Plan; Exist. Seawall and Exist. Grade; Seawall Detail; Seawall and Fill Section C-C; Proposed Retaining Wall.
 - ELEVATIONS: The Woods Residence 137 Five Mile River Road Darien by New Ridge Builders, 4 sheets total.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.

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- E. A final “as-built” topographic survey is hereby required to certify that the septic system, stonewall, regrading, walkway and other site improvements adjacent to the Five Mile River and the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed.
- F. The applicant shall continue to pursue compliance with the DEP requirement to resolve the issue regarding unauthorized float and two piles. Because this area is outside of the Planning & Zoning Commission’s jurisdiction, the Commission cannot require it as part of this approval, however, the Commission strongly recommends that the applicant resolve the matter before January 1, 2004.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815 of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation and completion of the approved plans for site work, regrading, septic system installation, walkway down the steep slope, drainage and stabilization/re-vegetation of all disturbed areas (all work except the actual house and garage/workshop construction) within one year of this action (by October 6, 2004). This may be extended as per Section 815.

All provisions and details of the plan, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Kenny, seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the following agenda item:

Amendment to Zoning Map, Robert & Suzanne Cottle, 154 Christie Hill Road. Proposing to amend the Darien Zoning Map by moving the boundary between the R-1 and R-2 zones in the vicinity of Christie Hill Road and Halter Lane.

Director of Planning Jeremy Ginsberg reviewed Mr. Maslan’s presentation, including the fact that the Commission had amended the Town Plan of Development to include a provision to carefully review and consider proposed amendments to the Zoning Map. In this case, Attorney Maslan

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requested that the Commission consider adjusting the zone boundary line between the one-acre and two-acre zones that currently splits the Cottle property. Mr. Ginsberg noted that substantial portions of the Cottle property are wetlands, and are therefore regulated by the Environmental Protection Commission.

Mr. Damanti said that in this case, the requested amendment is for just one parcel, not the broader neighborhood. Mrs. Forman asked why the Commission would want to change the Zoning Map aside from the applicant's personal preference? She said that the requested change is not just housekeeping or tidying up the map, that it would make a substantive change to the development potential of this property, and could therefore impact the entire neighborhood.

Mr. Damanti said that the zone line was established as being parallel to Hollow Tree Ridge Road, and that it was done prior to affixing the property lines onto the Zoning Map. The zone line and the property lines are not coincidental. In this case, the lot is on the cusp between the one-acre and two-acre zones. Mrs. Forman asked if everyone on the cusp would expect to be down-zoned.

Mr. Kenny said that the Commission should discuss the intent of the modification to the Town Plan. He thinks that the intent was allow for the re-examining of the zone boundaries for large neighborhoods, not to encourage individual property owners to request adjustments in zone lines as they affect a single property. He also said that there is a question of consistency and which way the zone boundary should be moved.

Mr. Spain said that as careful planners, perhaps it would be best to decline to change the zone boundary line at this time, but to study more of this section of Town. Mr. Damanti said that one could make an argument that the whole site would be more rational to be in the R-2 Zone (two-acre residential) rather than changing it to the R-1 Zone (one-acre residential). He said that changing it to one-acre zoning could be bad planning and lead to more confusion.

Mr. Ginsberg said that there are eight large areas of Town that could be studied, and that this Hollow Tree Ridge Road area could be one of those.

As the Commission discussed the matter more, they reached a consensus that it would be appropriate to deny the zone boundary adjustment application.

The following motion was made: That the Commission direct the staff to draft a resolution to deny the application, and that the resolution would be reviewed and acted upon at a future meeting. The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

Coastal Site Plan Review #53-F, Flood Damage Prevention Application #43-F, Ann B. Lunn, 8 Contentment Island Road. Proposing to modify plans for the previously approved, but never constructed single-family residence and perform related site development activities within regulated areas.

Mr. Kenny said that there seems to be discrepancies and lots of questions about the grading, drainage and need for more information and clarification. Mrs. Forman said that she sees lots of

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“red flags”, and that the proposal to increase the size of the house is “pushing the envelope.” She said that four bedrooms is as far as she can comfortably go, given the site constrictions and the lack of more working room on the site. Mr. Spain said that the approval had already been granted for the four bedroom house, and that apparently it is still valid and in effect. He said that the five bedroom plan is not yet satisfactory to make him comfortable. He said that the approval from the Health Department is based on very old test data and would result in the septic system installation right along a conservation easement area. He said that Mr. Cudd had testified that the underlying soil was fill and other marginal material, and that there were no facts to contradict Mr. Cudd’s testimony. Mr. Spain noted that the applicant had said that a four bedroom house is not marketable.

Mr. Bigelow said that the additional plans should not be approved until new test data is provided to make certain that the septic system would function properly without the threat of pollution to the adjacent waters of Scott’s Cove and Long Island Sound. He said that the previously approved plans had been modified and/or reapproved on a number of occasions.

Mrs. Forman said that when the four bedroom septic system design was approved, it was also approved with a very restrictive house development footprint. This was based on the Coastal Site Plan Review, the adjacent tidal wetlands, the flood conditions of the property, the need for the driveway, house and septic system all to be placed within the site without impacting the natural resources. She said that all of these factors were carefully looked at in the previously approved plans. She said that the current application is to expand the septic system design to accommodate a five bedroom house, and to also expand the house. Mr. Bigelow said that a lot of pieces were not fitting together well, and that he was not comfortable with the application. Mr. Spain said that the real concern for the Commission is whether the current proposal should be approved. He said that the issue before the Commission is not whether the old permit is still valid.

Mr. Spain said that it might be possible to change the house design without making it so big. Mr. Kenny said that the Commission could approve the project with the condition that new borings and testing be conducted at the site, and that the actual septic system be installed before any portion of the house is installed. If there was a need to modify anything, it would result in the house being smaller rather than the septic system encroaching into the conservation easement. He said that the Commission could also approve the project with the understanding that the permit is not transferable to someone else without prior written approval from the Commission.

Mr. Damanti said that the engineer could tell us on paper that the design would work, but it also appeared that there was no margin for error. Mr. Spain said that the engineer’s conclusion was based on old data in an environmentally sensitive area that is very close to Scott’s Cove. Mr. Damanti said that the engineer indicated that in an ideal situation, the septic design would work, but Mr. Bigelow said that it would be better to go back and retest the soils before any approval is granted by the Commission.

The Commission reached a consensus that the project should not be approved at this time. The following motion was made: That the staff be directed to draft a resolution to deny the application. The resolution would be reviewed and acted upon at a future meeting. The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

Chairman Damanti read the following agenda item:

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Coastal Site Plan Review #184, Flood Damage Prevention Application #195, Land Filling & Regrading Application #102, Friends of Goodwives River, 33 and 30 Goodwives River Road, and 11 Queens Lane. Proposing to repair the Upper Pond Dam, construct a fish ladder, remove approximately 9,000 cubic yards of sediment and restore aquatic and shoreline habitats of the Upper Pond.

Mr. Damanti said that the proposed work in the Upper Pond (which is located uphill from Gorham's Pond and just to the northeast of Goodwives River Road) involves dredging and restabilization of the side embankments. There are three smaller ponds that are farther up the river that have been reviewed and acted upon by the Environmental Protection Commission. Work on the three other ponds does not require approval by the Planning and Zoning Commission. He also said that there really does not seem to be a question regarding the standing of the Friends of Goodwives River as an organization. Mrs. Forman said that there is a question about the mapping of the site and the requirements of Section 825e of the Regulations. Mr. Bigelow questioned whether the restoration of the dam would be considered an increase in the height of the water or just returning it to what it was. If the Federal Emergency Management Agency (FEMA) Map is incorrect, then the applicant needs to first get the map clarified or corrected by the Connecticut Department of Environmental Protection (DEP) and FEMA.

Mr. Spain said that under Section 825e, within the floodway shown on the map, there is a prohibition against any increase in the flood levels. He said that restoring the dam would not be putting the water higher than it used to be. It would just be restoring the old conditions. He wondered whether this should be referred to as a "project of development" or one of "restoration." He said that this seems to be restoration that unfortunately deviates from what the current Flood Insurance Rate Map shows. If the map was wrong before the dam was broken, then it needs to be clarified with FEMA. Mr. Bigelow said that it is a wonderful project, but he is unsure how DEP and FEMA will respond, and that it seems appropriate that the Commission have those answers before the Planning and Zoning Commission takes action to approve the project. Mr. Kenny said that it is a great project, and the Commission should do what it can to assist the efforts of the applicant to get it approved by DEP, but all the data and information needs to be provided by the applicant.

The consensus of the Commission was that the project is a good one, but details need to be worked out, and apparently the easements need to be resolved so that the Friends of Goodwives River would be able to deal with the issues completely. The staff was asked to draft a resolution for consideration and action at a future meeting. Even though the resolution would be to deny the project, it was suggested that the resolution be as positive as possible regarding the project as a whole.

Approval of Minutes

September 16, 2003 Public Hearing

Changes to Page 11 were discussed and agreed upon. The following motion was made: That the minutes be adopted as revised. The motion was made by Mrs. Forman and seconded by Mr. Kenny. Voting in favor were Mrs. Forman and Messrs. Damanti, Spain and Kenny. Mr. Bigelow abstained

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because he was not at the meeting of September 16, 2003. The minutes were adopted by a vote of 4-0-1.

September 30, 2003 General Meeting

The following motion was made: That the minutes be adopted as presented. The motion was made by Mr. Spain, seconded by Mrs. Forman. Voting in favor were Mrs. Forman and Messrs. Damanti, Spain and Kenny. Mr. Bigelow abstained because he had not attended the meeting of September 30, 2003. The minutes were adopted by a vote of 4-0-1.

Discussion of 2005 Town Plan of Conservation & Development

Discussion regarding a Vision prepared by the Board of Selectmen and a questionnaire.

The Commission discussed the need for a vision or mission statement regarding the future of the Town. They would need to coordinate this effort with the Board of Selectmen. Further work must be done on this matter before it can be finalized.

Any Other Business (requires two-thirds vote of Commission)

The following motion was made: That the Commission discuss the status of Pizza, Pasta & Brew located on Tokeneke Road and Center Street. The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved. The Commission members reviewed the letters from the adjacent business operator complaining about the noise, use of hose causing flooding of the basement, times that the refuse room was cleaned out, etc. The Commission members noted that this is not the first letter of complaint. The staff said that they will discuss the letter with the Health Department because it raises several health issues and concerns. Commission members said that cleaning the new trash storage room during the hours of operation of the neighboring restaurant would appear to be a violation of the Zoning approval. Commission members said that the Zoning Enforcement Officer needs to inform the operators of Pizza, Pasta & Brew that they are at risk of jeopardizing their approval. Commission members suggested that contacting the State Liquor Control Commission might be helpful if there is any enforcement action that is taken.

There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning & Zoning